IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1028 OF 2007

Mr. Narendra Popatrao Pagar ..Petitioner
Vs.
1. State of Maharashtra and anr. ..Respondents

Mr. Chandrahas Andekar for petitioner.
Mr. D.P. Adsule, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : August 10, 2007.

P.C.:

1. Heard the learned counsel for the petitioner who is an accused in SCC No. 7258 of 2000 filed under Section 138 of the Negotiable Instruments Act, 1881. In the said complaint an application at Exh.80 came to be filed by the accused praying for impounding of the agreement for sale on the ground that it was an unregistered document and it was not properly stamped. By the impugned order dated 25/4/2007 this application came to be rejected.

2. The learned Magistrate at the first instance observed that as per Section 33 (2)(a) and Section 34(c) of the Bombay Stamp Act only those documents

which are coming before the Court in the proceedings under Chapter IX or Part D of Chapter X if the Court thinks fit shall examine or impound such documents and secondly Section 34(c) of the Bombay Stamp Act clearly indicates that nothing shall prevent the admission of any document in evidence in any proceeding in a criminal Court other than a proceeding under Chapter IX or Part D of Chapter X of the Criminal Procedure Code and consequently, unregistered or insufficient stamp document could be read in evidence in any other criminal proceedings. As per the learned Magistrate, therefore, the agreement for sale, though unregistered or with insufficient stamp could be read in evidence by the complainant to discharge his onus to prove the issue of enforceable legal liability for which the dishonoured cheque was issued.

3. No fault could be found with the view taken by the learned Magistrate and hence the petition is rejected summarily.

(B.H. Marlapalle,J.)